

retrieved (i.e., sub-content data associated with the already received content data), prior to data communication.

To achieve this object, the content retrieval device of the present invention provides that an anchor tag of a text file (i.e., the already received content data) described in a markup language includes a connection method for connecting the sub-content data, thereby determining a connection method for connecting the sub-content data in accordance with the connection method included in the already retrieved content data.

Therefore, in the content retrieval device according to the present invention, the already retrieved content data and the new content data to be subsequently retrieved (i.e., the sub-content data) can be associated with each other, thereby making it possible to determine the connection method for connecting the sub-content data based on the already retrieved content data.

The above-described feature of the present invention is recited in each of claims 2-5, 7-10, 12-15 and 17-20.

In rejecting the present application, the Examiner acknowledged that Mutschler does not disclose or suggest choosing a method for connecting with a client.

To teach this feature, the Examiner applied Lev, which discloses a method for transmitting data packets based on a message type. Lev discloses that an information source is converted to a data packet. Then, based on the data packet, a message type is determined. Based on this determined message type, either a packet switching connection method or a circuit switching connection method is selected (see Column 4, lines 30-44 and Figure 4).

However, in stark contrast to the present invention, Lev discloses that a packet header which is provided when content data to be transmitted is divided into packets includes a connection method for connecting the content data. Accordingly, Lev discloses that a connection method is determined for connecting the content to be transmitted in accordance with the connection method included in the packet header.

Therefore, Lev does not disclose or suggest the above-described feature of the present invention in which already retrieved content data and new content data to be subsequently retrieved (i.e., sub-content data) are associated with each other.

Consequently, according to Lev, a connection method for connecting the new content

data to be subsequently and sequentially received cannot be determined based on the already retrieved content data.

On the other hand, Mutschler discloses a general browser used for referring to a text file described in a markup language such as HTML. However, neither Lev nor Mutschler disclose or suggest any motivation to combine the general browser with the invention of Lev.

Consequently, despite the Examiner's conclusory assertion to the contrary, the Applicants respectfully submit that it would not have been obvious to one skilled in the art would to arrive the present invention in view of the disclosure of Mutschler and Lev.

Moreover, even if Mutschler and Lev were properly combinable, it would have been impossible to the attain the above-described feature of the present invention, in which the already retrieved content data and the new content data to be subsequently and sequentially retrieved (i.e., the sub-content data) are associated with each other, because this feature is not disclosed or suggested in Lev, and is not disclosed or suggested in Mutschler.

The Examiner is respectfully reminded that the applied references must suggest the desirability of the claimed invention. See In re Rouffet, 149 F.3d 1350, 1357, 47 U.S.P.Q.2d 1453, 1457-58 (Fed. Cir. 1998). An obviousness rejection cannot be based on the resort of the Examiner to various non-pertinent references and the combination of bits and pieces of the references in light of the Applicants' claimed invention. An extensive discussion of the criteria to be applied in obviousness rulings is set forth in In re Gordon, 733 F.2d 900, 902, 221 U.S.P.Q. 1125, 1127 (Fed Cir. 1984), which clearly states the long-held proposition that "the fact that a prior art reference can be modified to show the patented invention does not make the modification obvious unless the prior art reference suggests the desirability of the modification." (emphasis added) An attempted modification of a prior art reference that is unwarranted by the disclosure of that reference is thus improper. Accordingly, the Examiner must make a showing that the combination of two or more references was suggested by the references.

The Examiner even acknowledges that Lev does not disclose determining a connection type at the destination, and accordingly, the Examiner has recognized the blatant deficiency in the disclosure of Lev, since Lev does not disclose or suggest that

already retrieved content data and new content data to be subsequently retrieved (i.e., sub-content data) are associated with each other.

Moreover, the Examiner does not even attempt to establish a *prima facie* case of obviousness by demonstrating that the applied references suggest the desirability of modifying Lev to result in the inventions of claims 2-5, 7-10, 12-15 and 17-20. Instead, the Examiner merely asserts a conclusory rationale that although Lev determines a connection type at the source rather than at the destination, a person of ordinary skill in the art "would have readily recognized the desirability and advantages" of modifying the combination of Mutschler and Lev.

Notwithstanding this baseless conclusion which does not satisfy the Examiner's burden of demonstrating that the applied references suggest the desirability of the inventions of claims 2-5, 7-10, 12-15 and 17-20, the Applicants respectfully submit that even the Examiner's modification of Lev does not cure the deficiencies of Mutschler for failing to disclose or suggest each and every limitation of claims 2-5, 7-10, 12-15 and 17-20.

In particular, because Lev does not disclose or suggest that Lev does not disclose or suggest that already retrieved content data and new content data to be subsequently and sequentially retrieved (i.e., sub-content data) are associated with each other, the Applicants respectfully submit that the Examiner has not established a *prima facie* case of obviousness of claims 2-5, 7-10, 12-15 and 17-20. To establish *prima facie* obviousness of a claimed invention under 35 U.S.C. 103(a), all of the claim limitations must be disclosed or suggested by the applied prior art. See CFMT, Inc. v. YieldUp Int'l Corp., 349 F.3d 1333, 1342, 68 U.S.P.Q.2D 1940, 1946-47 (Fed. Cir. 2003); In re Royka, 490 F.2d 981, 985, 180 U.S.P.Q. 580, 583 (C.C.P.A. 1974).

Accordingly, notwithstanding the Examiner's conclusory assertion that it would have been obvious to modify Lev to determine a connection method at the destination end instead of the transmitting end, the Applicants respectfully submit that it would have been impossible to attain the feature of claims 2-5, 7-10, 12-15 and 17-20, in which the already retrieved content data and the new content data to be subsequently and sequentially retrieved (i.e., the sub-content data) are associated with each other, because

this feature is not disclosed or suggested in Lev, and is not disclosed or suggested in Mutschler.

Furthermore, the Examiner is respectfully reminded that the mere fact that references can be combined or modified (as in the case of Lev) does not render the resultant combination obvious unless the applied references also suggest the desirability of the combination. See In re Mills, 916 F.2d 680, 16 U.S.P.Q.2d 1430 (Fed Cir. 1990). Accordingly, the Applicants respectfully submit, again, that to establish a case of *prima facie* obviousness, the applied references must suggest the desirability of the modification of the references. The Examiner has not provided any evidence, other than an attempt to recreate the inventions of claims 2-5, 7-10, 12-15 and 17-20 by opining that one skilled in the art would have "readily recognized the desirability and advantages" of modifying the teachings of Lev to cure the deficiencies of Mutschler, that either Mutschler or Lev suggest the desirability of the combination of Mutschler and Lev, as modified by the Examiner.

In view of the above, the Applicants respectfully submit that Mutschler and Lev, either individually or in combination, clearly do not disclose or suggest that already retrieved content data and new content data to be subsequently retrieved (i.e., sub-content data) are associated with each other, as recited in claims 2-5, 7-10, 12-15 and 17-20.

Therefore, the teachings of Mutschler and Lev clearly do not meet each and every limitation of claims 2-5, 7-10, 12-15 and 17-20, and therefore, no obvious combination of Mutschler and Lev would result in the inventions of claims 2-5, 7-10, 12-15 and 17-20.

Furthermore, in view of the clear distinctions discussed above, the Applicants respectfully submit that one skilled in the art would not have been motivated to modify the properly combinable combination of Mutschler and Lev in such a manner as to result in, or otherwise render obvious, the present invention as recited in claims 2-5, 7-10, 12-15 and 17-20.

Moreover, the Applicants respectfully submit that the Examiner has not satisfied his burden of establishing a *prima facie* case of obviousness, because the Examiner cannot demonstrate that the Mutschler and Lev references suggest the desirability of modifying Mutschler and Lev as proposed by the Examiner to result in the inventions of claims 2-5, 7-10, 12-15 and 17-20.

Therefore, it is submitted that the claims 2-5, 7-10, 12-15 and 17-20 are clearly allowable over the prior art as applied by the Examiner.

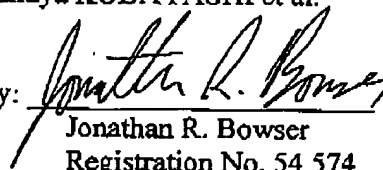
In view of the foregoing amendments and remarks, it is respectfully submitted that the present application is clearly in condition for allowance. An early notice thereof is respectfully solicited.

If, after reviewing this Amendment, the Examiner feels there are any issues remaining which must be resolved before the application can be passed to issue, the Examiner is respectfully requested to contact the undersigned by telephone in order to resolve such issues.

Respectfully submitted,

Takuya KOBAYASHI et al.

By:



Jonathan R. Bowser
Registration No. 54,574
Attorney for Applicants

JRB/nrj
Washington, D.C. 20006-1021
Telephone (202) 721-8200
Facsimile (202) 721-8250
June 28, 2006